

UNITED STATES DISTRICT COURT

FILED
DISTRICT COURT OF GUAM

for

AUG 15 2006

District of Guam

MARY L.M. MORAN
CLERK OF COURT

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Johnny Wu Su Case Number: CR 01-00089-001

Name of Sentencing Judicial Officer: John S. Unpingco

Date of Original Sentence: July 23, 2002

Original Offense: Possession with Intent to Distribute Crystal Methamphetamine Hydrochloride aka "ICE", in violation of 21 United States Code Section 841(a)(1).

Original Sentence: 60 month term of imprisonment followed by a 96 month term of supervised release with conditions: not use or possess illegal controlled substances and shall submit to one urinalysis within 15 days after release from imprisonment and to two more urinalyses thereafter; refrain from the use of any and all alcoholic beverages; participate in a substance abuse treatment program approved by the U.S. Probation Office for the treatment of narcotic addiction or drug or alcohol dependency which will include testing for the detection of substance use or abuse and make co-payment for treatment at rate to be determined by the U.S. Probation Office. Shall undergo a mental health assessment approved by the U.S. Probation Office and shall submit to any recommended treatment as a result of that assessment and make co-payment for treatment at a rate to be determined by the U.S. Probation Office; support his dependents and perform 400 hours of community service under the direction of the U.S. Probation Office; and pay a \$100 special assessment fee. **On March 16, 2006, an Informational Report was filed to suspend the special condition requiring mental health treatment. On April 13, 2006, conditions were modified to include the additional condition that the defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer.**

Type of Supervised Release Date Supervision December 3, 2004
Assistant U.S. Russ Stoddard Defense Attorney: Federal Public Defender

PETITIONING THE COURT

- ☒ To issue a warrant
☐ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1.	Arrest for Disorderly Conduct, Obstruction of Government Operation and Resisting Arrest on July 7, 2006.
2.	Use of a controlled substance on June 23, 2006.
3.	Failure to submit to substance abuse testing on June 29, 2006; and July 10, 13, 18, and 25, 2006.
4.	Failure to submit a monthly supervision report for June 2006.

ORIGINAL

U.S. Probation Officer Recommendation:

☒ The term of supervision should be

☒ revoked.

☐ extended _____ years, for a total term of _____ years.

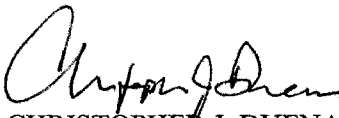
☐ The conditions of supervision should be modified as follows:

*Please see attached Declaration in Support of Petition written by
U.S. Probation Officer Grace D. Flores.*

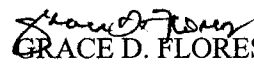
Reviewed by:

Reviewed by:

I declare under penalty of perjury
that the foregoing is true and correct.


CHRISTOPHER J. DUENAS
U.S. Probation Officer Specialist


RUSS STODDARD
Special Assistant U.S. Attorney


GRACE D. FLORES
U.S. Probation Officer

Date: 8/2/06

Date: 8-9-06

Executed on: August 2, 2006

THE COURT ORDERS:

☐ No action.

☒ The issuance of a warrant.

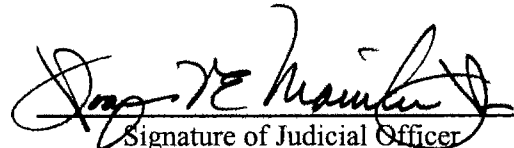
☐ The issuance of a summons.

☐ Other

JOAQUIN V.E. MANIBUSAN, JR.
U. S. Magistrate Judge

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DISTRICT COURT OF GUAM
HAGATNA, GUAM


Signature of Judicial Officer

August 15, 2006
Date

ORIGINAL

VIOLATION WORKSHEET

1. Defendant Johnny Wu Su

2. Docket Number (Year-Sequence-Defendant No.) CR 01-00089-001

3. District/Office 0993/1

4. Original Sentence Date 07 / 23 / 2002
month day year

(If different than above):

5. Original District/Office _____

6. Original Docket Number (Year-Sequence-Defendant No.) _____

7. List each violation and determine the applicable grade (see §7B1.1(b))

<u>Violation(s)</u>	<u>Grade</u>
● Arrest for Disorderly Conduct, Obstruction of Government Operation, and Resisting Arrest on July 7, 2006.	C
● Use of a controlled substance on June 23, 2006.	C
● Failure to submit to substance abuse testing on June 29, 2006; and July 10, 13, 18, and 25, 2006.	C
● Failure to submit a complete and written report for June 2006.	C
● _____	_____
● _____	_____

8. Most Serious Grade of Violation (see §7B1.1(b)) C

9. Criminal History Category (see §7B1.4(a)) II

10. Range of Imprisonment (see §7B1.4(a)) 4-10 months

11. Sentencing Options for Grade B and C Violations Only (Check the appropriate box):

- ☒ (a) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is at least one month but not more than six months, §7B1.3(c)(1) provides sentencing options to imprisonment.
- ☐ (b) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, §7B1.3(c)(2) provides sentencing options to imprisonment.
- ☐ (c) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than ten months, no sentencing options to imprisonment are available.

Defendant: Johnny Wu Su

12. Unsatisfied Conditions of Original Sentence

List any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation (see §7B1.3(d)):

Restitution (\$)	<u>N/A</u>	Community Confinement	<u>N/A</u>
Fine (\$)	<u>N/A</u>	Home Detention	<u>N/A</u>
Other	<u>400 hrs community service</u>	Intermittent Confinement	<u>N/A</u>

13. Supervised Release

If probation is to be revoked, determine the length, if any, of the term of supervised release according to the provisions of §§5D1.1-1.3 (see §7B1.3(g)(1)).

Term: N/A to _____ years.

If supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment (see 18 U.S.C. §3583(e) and §7B1.3(g)(2)).

Period of supervised release to be served following release from imprisonment: 86-92 months

14. Departure

List aggravating and mitigating factors that may warrant a sentence outside the applicable range of imprisonment:

15. Official Detention Adjustment (see §7B1.3(e)): 0 months 1 days

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM**

UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. 01-00089-001
Plaintiff,)	
)	
)	DECLARATION IN SUPPORT OF PETITION
vs.)	
)	
JOHNNY WU SU,)	
Defendant.)	
_____)	

I, U.S. Probation Officer Grace D. Flores, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of supervised release for Johnny W. Su, and in that capacity declare as follows:

On July 23, 2002, Johnny Wu Su was sentenced by the Honorable John S. Unpingco for the offense of Possession with Intent to Distribute Crystal Methamphetamine Hydrochloride aka "ICE", in violation of 21 U.S.C. §841(a)(1). Mr. Su's term of supervised release began on December 3, 2004.

Mandatory Condition: *The defendant shall not commit another federal, state, or local crime.* On July 7, 2006, Johnny Wu Su was arrested for the offense of Disorderly Conduct, Obstruction of Government Operation and Resisting Arrest. The Guam Police Department Police Report number 06-17326, outlined the offense as follows:

Superior Court Marshals, while attempting to execute a search warrant for Anthony Jesse Cruz also known as Peter Leon Guerrero Cruz, went to the residence of Vivian Cruz Meno. After being granted permission to enter the premises, Marshals observed drug paraphernalia in plain view and requested the assistance of the Guam Police Department. Marshals also discovered a possible stolen vehicle at the location.

A search warrant was obtained and Guam Police Officers executed the warrant. Officers subsequently discovered approximately 5 grams of methamphetamine, six transparent glass tubes, 8 syringes, several ziplock bags, and \$7,780 in cash.

DECLARATION IN SUPPORT OF PETITION

Re: SU, Johnny Wu

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Among the individuals present at the residence was Johnny Su. Police Officers Ananich and J.Q. Mendiola asked Su if anything belonged to him. Mr. Su, who was agitated, and repeated several times that this was “fucked up.” The other occupants of the residence became excited and were ready to assist Su. Mr. Su continued to yell as he was escorted out of the room. He attempted to break the officer’s hold on him. Officers were forced to wrestle Mr. Su to the ground and restrain him.

The homeowner Vivian Meno, was arrested for Possession of a Schedule II Controlled Substance and Possession of a Controlled Substance with Intent to Deliver. Meno told officers that she had known Johnny Su for about one month and he comes to her residence twice a week. She stated that Su gives her one to two grams of “ice” to sell for him. Meno stated that she has no knowledge of who supplies Su with the “ice”.

Mr. Su was booked and confined, and released the following day, from custody on July 8, 2006. Mr. Su reported to the Probation Officer that he was trying to advise his aunt of her rights when officers misconstrued his actions and arrested him.

Violation #2, Mandatory Condition: *The defendant shall refrain from any unlawful use of a controlled substance* On May 24, 2006, Mr. Su submitted a urine sample which the laboratory classified as invalid due to the creatinine and specific gravity levels being abnormal. On June 23, 2006, another urine specimen was taken and Mr. Su tested positive for the use of methamphetamine. The specimen was sent to Scientific Testing Laboratories and was confirmed positive for the use amphetamine and methamphetamine.

Violation #3, Special Condition: *The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer.* As a result of the diluted specimen and positive specimen, Mr. Su was referred for substance abuse testing on June 23, 2006. He failed to appear for substance abuse tests on June 29, 2006; July 10, 13, 18, and 25, 2006. Mr. Su has additionally failed to report to the U.S. Probation Office for compliance meetings subsequent to each urinalysis “no show”.

Violation #4, Standard Condition: *The defendant shall submit a complete and truthful written report within the first five days of the month.* Mr. Su failed to submit his monthly supervision report for the month of June 2006.

Supervision Compliance: Mr. Su paid the \$100 special assessment fee on January 13, 2003. He submitted to the collection of DNA on September 13, 2005.

DECLARATION IN SUPPORT OF PETITION

Re: SU, Johnny Wu

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Recommendation: This Officer respectfully requests that the Court issue a Warrant for the Arrest of Johnny Wu Su in order to appear at a hearing scheduled by the Court, and during that hearing, he be held to answer or show cause why his term of supervised release should not be modified or revoked pursuant to 18 U.S.C. § 3583.

Executed this 2nd day of August 2006, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Respectfully submitted,

FRANK MICHAEL CRUZ
Chief U.S. Probation Officer

By: Grace D. Flores
GRACE D. FLORES
U.S. Probation Officer

Reviewed by:

Christopher J. Duenas
CHRISTOPHER J. DUENAS
U.S. Probation Officer Specialist

cc: Russ Stoddard, AUSA
John Gorman, FPD
File